

DATED

30 November

2017

(1) RESIDENTIAL FREEHOLDS LTD

-and-

**(2) THE MAYOR AND THE BURGESSES OF
THE LONDON BOROUGH OF CAMDEN**

FIRST DEED OF VARIATION

Relating to the Agreement dated 16th May 2017
Between the Mayor and the Burgesses of the
London Borough of Camden and
Residential Freeholds Limited
under section 106 of the Town and
Country Planning Act 1990 (as amended)
Relating to development at premises known as

Burghley Court, 18 Ingestre Road London NW5 1UF

Andrew Maughan
Head of Legal Services
London Borough of Camden
Town Hall
Judd Street
London WC1H 9LP

Tel: 020 7974 1918
Fax: 020 7974 2962

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CLS/COM/PM/1800.465
2017/4259/P
FINAL 151117



THIS DEED is made on the 30th day of November 2017

BETWEEN

1. **RESIDENTIAL FREEHOLDS LTD** (Company Registration Number 5413818) whose registered address is 5 Sentinel Square, London NW4 2EL hereinafter called "the Owner") of the first part
2. **THE MAYOR AND BURGESSES OF THE LONDON BOROUGH OF CAMDEN** of Town Hall, Judd Street, London WC1H 9LP (hereinafter called "the Council") of the second part

WHEREAS:

- 1.1 The Council and the Owner entered into an Agreement dated 16th May 2017 pursuant to Section 106 of the Town and Country Planning Act 1990 (as amended).
- 1.2 The Owner is registered at the Land Registry as the freehold proprietor with Title Absolute under title number NGL791078.
- 1.3 The Owner is the freehold owner of and is interested in the Property for the purposes of Section 106(9) of the Act.
- 1.4 The Council is the local planning authority for the purposes of the Act and considers it expedient in the interests of the proper planning of its area that the Development of the Property should be restricted or regulated in accordance with this Deed.
- 1.5 A new Planning Application in respect of the Property and to amend the Original Planning Permission was submitted to the Council by the Owner and validated on 6th September 2017 for which the Council resolved to grant permission conditionally under reference 2017/4259/P subject to the conclusion of this Deed.

1.6 This First Deed of Variation is made by virtue of the Town and Country Planning Act 1990 Section 106A (as amended) and is a planning obligation for the purposes of that section.

1.7 Without prejudice to the terms of the other covenants contained in the Existing Agreement the parties hereto have agreed to vary the terms of the Existing Agreement as hereinafter provided.

2. INTERPRETATION

2.1 All words and phrases defined in the Existing Agreement shall have the same meaning in this Deed save where the context otherwise dictates and for the avoidance of any doubt the Existing Agreement shall remain in full force and effect save as varied by this Deed.

2.2 All reference in this Deed to clauses in the Existing Agreement are to clauses within the Existing Agreement.

2.3 Where in this Deed reference is made to a clause schedule or recital such reference (unless the context otherwise requires) is a reference to a clause schedule or recital of this Agreement.

2.4 Headings are for ease of reference only and are not intended to be construed as part of this Deed and shall not be construed as part of this Agreement and shall not effect the construction of this Deed.

2.5 Unless the context otherwise requires references to the singular shall include the plural and vice versa.

2.6 It is hereby agreed between the Parties that save for the provisions of clauses 1, 2, 3, 5, 6 and 7 hereof all of which shall come into effect on the date hereof the covenants undertakings and obligations contained within this Deed shall become binding upon the Owner upon the Implementation Date.

2.7 References in this Deed to the Owner shall include their successors in title.

2.8 In this Deed the following expression shall unless the context otherwise states have the following meaning now allocated to it.

2.8.1 "Application for First Material Amendments"

The application for First Material Amendments in respect of the Property submitted to the Council and validated on the 6th September 2017 for which a resolution to grant approval has been made conditionally by the Council under reference number 2017/4259/P subject to the conclusion of this Deed

2.8.2 "Deed"

this First Deed of Variation made pursuant to Section 106A of the Act

2.8.3 "Existing Agreement"

the Section 106 Agreement under the Town and Country Planning Act 1990 (as amended) dated 16th May 2017 made between Residential Freeholds Limited and the Council

3. VARIATION TO THE EXISTING AGREEMENT

3.1 The following definitions contained in the Existing Agreement shall be varied as follows:

3.1.1 "Development"

Additional storey to provide two x 2 bedroom flats at 3rd floor level as shown on PL001, PL005, PL002 Rev.PL2, PL004, PL004A Rev.PL2, PL200 Rev.PL1, PL201 Rev.PL1, PL202 Rev.PL3, PL300 Rev.PL1, Planning Statement dated 22 September 2016, Design and Access Statement dated December 2016, and Revised Daylight and Sunlight Report dated February

2017 ref: P1106 as varied by the First Material Amendments

3.1.2 "Planning Permission" the Original Planning Permission as amended by the First Material Amendments given approval under reference number 2017/4259/P to be issued by the Council substantially in the form of the draft annexed hereto

3.2 The following definition shall be added to the Existing Agreement:-

3.2.1 "the First Material Amendments" Variation of condition 3 (approved drawings) of planning permission ref: 2016/7054/P granted on 16/05/2017 for the erection of additional storey to provide two x 2 bedroom flats at 3rd floor level; namely, installation of 2 x new windows to side elevations, and minor changes to accommodate fire & safety provisions as shown on Superseded plans: PL201 Rev.PL1, PL300 Rev.PL1 Amended plans: BC-PP2-01 rev B, BC-PP2-02 rev B

3.2.2 "the Original Planning Permission" means the planning permission granted by the Council on 16th May 2017 referenced 2016/7054/P allowing the Additional storey to provide two x 2 bedroom flats at 3rd floor level.

3.3 All references in Clause 5 and Clause 6 of the Existing Agreement to "Planning Permission reference 2016/7054/P" shall be replaced with "Planning Permission reference 2017/4259/P".

Tal Arc Ltd
Rear of 8 Dollis Road (Access from 2a
Crescent Road)
London
N3 1HP

Application Ref: **2017/4259/P**

Dear Sir/Madam

DRAFT
FOR INFORMATION ONLY - THIS IS NOT A FORMAL DECISION
Town and Country Planning Act 1990 (as amended)

DECISION SUBJECT TO A SECTION 106 LEGAL AGREEMENT

Address:
Burghley Court
18 Ingestre Road
London
NW5 1UF

Proposal:

DECISION
Variation of condition 3 (approved drawings) of planning permission ref: 2016/7054/P granted on 16/05/2017 for the erection of additional storey to provide two x 2 bedroom flats at 3rd floor level; namely, installation of 2 x new windows to side elevations, and minor changes to accommodate fire & safety provisions.

Drawing Nos:

Superseded plans: PL201 Rev.PL1, PL300 Rev.PL1

Amended plans: BC-PP2-01 rev B, BC-PP2-02 rev B

The Council has considered your application and decided to grant permission subject to the conditions and informatives (if applicable) listed below **AND** subject to the successful conclusion of a Section 106 Legal Agreement.

The matter has been referred to the Council's Legal Department and you will be contacted shortly. If you wish to discuss the matter please contact **Aidan Brookes** in the Legal Department on **020 7 974 1947**.

Once the Legal Agreement has been concluded, the formal decision letter will be sent to you.

Condition(s) and Reason(s):

- 1 The development hereby permitted must be begun not later than the end of three years from the date of the original permission granted on 16 May 2017 (ref: 2016/7054/P).

Reason: In order to comply with the provisions of Section 91 of the Town and Country Planning Act 1990 (as amended).

- 2 All new external work shall be carried out in materials that resemble, as closely as possible, in colour and texture those of the existing building, unless otherwise specified in the approved application

Reason: To safeguard the appearance of the premises and the character of the immediate area in accordance with the requirements of policy D1 of the London Borough of Camden Local Plan 2017.

- 3 For the purposes of this decision, condition no.3 of planning permission 2016/7054/P shall be replaced with the following condition:

REPLACEMENT CONDITION 3

The development hereby permitted shall be carried out in accordance with the following approved plans: PL001, PL005, PL002 Rev.PL2, PL004, PL004A Rev.PL2, PL200 Rev.PL1, PL202 Rev.PL3, BC-PP2-01 rev B, BC-PP2-02 rev B.

Reason: For the avoidance of doubt and in the interest of proper planning.

- 4 The relevant part of the works shall be carried out in accordance with the details approved under ref: 2017/3973/P dated 12/09/2017 for the following:

- a) Details including sections at 1:20 of all windows and external doors.
- b) Manufacturer's specification details of all facing materials (to be submitted to the Local Planning Authority) and samples of those materials (to be provided on site).

All approved samples shall be retained on site during the course of the works.

Reason: To safeguard the appearance of the premises and the character of the immediate area in accordance with the requirements of policy D1 of the London Borough of Camden Local Plan 2017.

- 5 A 1.8 metre high screen, details of which shall have been submitted to and approved in writing by the local planning authority, shall be erected on the balcony of flat 10 adjacent to no.91 Burghley Road prior to commencement of use of the balcony and shall be permanently retained.

Reason: In order to prevent unreasonable overlooking of neighbouring premises in accordance with the requirements of policy A1 of the London Borough of Camden Local Plan 2017.

- 6 The proposed side windows facing 91 Burghley Road shall be obscure glazed and fixed shut up to 1.7m above floor level and shall be permanently retained as such thereafter.

Reason: In order to prevent unreasonable overlooking of neighbouring premises in accordance with the requirements of policy A1 of the London Borough of Camden Local Plan 2017.

Informative(s):

- 1 Your proposals may be subject to control under the Building Regulations and/or the London Buildings Acts that cover aspects including fire and emergency escape, access and facilities for people with disabilities and sound insulation between dwellings. You are advised to consult the Council's Building Control Service, Camden Town Hall, Judd St, Kings Cross, London NW1 2QS (tel: 020-7974 6941).
- 2 Noise from demolition and construction works is subject to control under the Control of Pollution Act 1974. You must carry out any building works that can be heard at the boundary of the site only between 08.00 and 18.00 hours Monday to Friday and 08.00 to 13.00 on Saturday and not at all on Sundays and Public Holidays. You are advised to consult the Council's Noise and Licensing Enforcement Team, Camden Town Hall, Judd St, Kings Cross, London NW1 2QS (Tel. No. 020 7974 4444 or search for 'environmental health' on the Camden website or seek prior approval under Section 61 of the Act if you anticipate any difficulty in carrying out construction other than within the hours stated above.
- 3 Your attention is drawn to the fact that there is a separate legal agreement with the Council which relates to the development for which this permission is granted. Information/drawings relating to the discharge of matters covered by the Heads of Terms of the legal agreement should be marked for the attention of the Planning Obligations Officer, Sites Team, Camden Town Hall, Argyle Street, WC1H 8EQ.
- 4 You are advised that Section 44 of the Deregulation Act 2015 [which amended the Greater London Council (General Powers) Act 1973]] only permits short term letting of residential premises in London for up to 90 days per calendar year. The person who provides the accommodation must be liable for council tax in respect of the premises, ensuring that the relaxation applies to residential, and not commercial, premises.
- 5 Reason for granting permission:

The proposed revisions are relatively minor ones that relate predominantly to the inclusion of fire and safety provisions. These include the installation of a glazed balustrade behind the central section of raised parapet at third floor level and 2 fire escape doors onto this terrace. This terrace would not be used as outside amenity space but for emergency escape only, with both doors featuring an emergency 'panic' push bar. The visual impact of these changes would be very limited, as the glass balustrade would only project over the parapet by 290mm and would be similar in appearance to those on the floor below.

The proposals also include the installation of 4 x additional rooflights at roof level. These would not be visible from street level and would not impact the appearance of the previously approved scheme.

New openings are proposed to each side elevation - one window facing 91 Burghley Road serving flat 1 and one new window facing north serving flat 2. This window would not directly face any neighbouring buildings, and therefore would not result in harm to residential amenity. The other window would be required to be obscure glazed (as secured by condition), to protect the privacy of the occupants on no.91. The proposed drawings also include a new widened opening to the rear balcony of flat 2. This would have limited design or amenity impacts and is considered acceptable.

Two Comments were received and duly taken into account prior to making this decision. The planning history of the site and relevant appeal decisions were taken into account when coming to this decision. The subject property is not within a Conservation Area, nor is the building listed or within the setting of a Listed Building.

As such, the proposed development is in general accordance with Policies A1 and D1 of the London Borough of Camden Local Plan 2017, and Design Policy D3 of the Kentish Town Neighbourhood Plan 2016. The proposed development also accords with the London Plan 2016 and the National Planning Policy Framework 2012.

- 6 This approval under Section 73 of the 1990 Act effectively varying the relevant condition of the previous planning permission is subject otherwise to the same terms, drawings, conditions (and obligations where applicable) as attached to the previous planning permission. This includes condition 1 providing for a 3 year time period for implementation which for the avoidance of doubt commences with the date of the original decision (and not this variation).

In dealing with the application, the Council has sought to work with the applicant in a positive and proactive way in accordance with paragraphs 186 and 187 of the National Planning Policy Framework.

Yours faithfully

Supporting Communities Directorate

Executive Director Supporting Communities

3.4 In all other respects the Existing Agreement (as varied by this Deed) shall continue in full force and effect.

4. COMMENCEMENT

4.1 Without prejudice to the effect of Clause 3.5 in the Existing Agreement the provisions in this Deed shall take effect on the Implementation of the Planning Permission referenced 2017/4259/P.

5. PAYMENT OF THE COUNCIL'S LEGAL COSTS



5.1 The Owner agrees to pay the Council prior to completion of this Deed its reasonable legal costs incurred in preparing this Deed

6. REGISTRATION AS LOCAL LAND CHARGE

6.1 This Deed shall be registered as a Local Land Charge

IN WITNESS WHEREOF the Council has caused its Common Seal to be hereunto affixed and the Owner has executed this instrument as a Deed the day and year first written.

EXECUTED AS A DEED BY)
RESIDENTIAL FREEHOLDS LIMITED)
acting by a Director and its Secretary)
Or by two Directors)


.....
Director

.....
Director/Secretary

**THE COMMON SEAL OF THE MAYOR
AND BURGESSES OF THE LONDON
BOROUGH OF CAMDEN**

was hereunto affixed by Order:-

R. Alexander

.....
Duly Authorised Officer





DATED

30th November

2017

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-and-

**(2) THE MAYOR AND THE BURGESSES OF
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